

**§213.270 Supplementary loans; election of action; claims; debentures.**

(a) *Election of action.* Where a real estate mortgage, deed of trust, conditional sales contract, chattel mortgage, lien, judgement, or any other security device has been used to secure the payment of a loan made under the provisions of this section, the lender may not, except with the approval of the Commissioner, both proceed against such security and also make claim under its contract of insurance, but shall elect which method it desires to pursue.

(b) *Maximum claim period.* Notice of intention to file claim on a form prescribed by the Commissioner shall be filed within 45 days after the lender becomes eligible for the benefits of the loan insurance, or within such later time as may be agreed upon by the Commissioner in writing.

(c) *Items to be filed on submitting claim.* Within 30 days after the filing of the notice of intention to file claim, or within such further period as may be agreed upon by the Commissioner in writing, the lender shall file with the Commissioner:

(1) The fiscal data pertaining to the loan transaction;

(2) Receipts covering all disbursements as required by the fiscal data form;

(3) The original note and any security instrument or instruments which shall be assigned to the Commissioner without recourse or warranty, except that the lender must warrant that no act or omission of the lender has impaired the validity and priority of such security instrument or instruments, that the security instrument or instruments, are prior to all mechanics' and materialmen's liens filed of record subsequent to the recording of such security instrument or instruments regardless of whether such liens attached prior to such recording date, and prior to all liens and encumbrances which may have attached or defects which may have arisen subsequent to the recording of such security instrument or instruments, except such liens or other matters as may be approved by the Commissioner, that the amount stated in the instrument of assignment is actually due and owing under the secu-

rity instrument or instruments, that there are no offsets or counterclaims thereto, and that the lender has a good right to assign such note and security instrument or instruments;

(4) All hazard insurance policies held on property serving as security for the loan or other evidence of insurance coverage acceptable to the Commissioner, together with a copy of the lender's notification to the carrier authorizing the amendment of the loss payable clause substituting the Commissioner as the holder of the security instrument;

(5) The assignment to the Commissioner of all rights and interests arising under the note and security instrument or instruments so in default, and all claims of the lender against the borrower or others arising out of the loan transaction;

(6) All policies of title or other insurance or surety bonds, or other guarantees and any and all claims thereunder; including evidence satisfactory to the Commissioner that the original title coverage has been extended to include the assignment of the note and the security instrument or instruments to the Commissioner;

(7) Any balance of the loan not advanced to the borrower;

(8) Any cash or property held by the lender or its agents or to which it is entitled; including deposits made for the account of the borrower and which have not been applied in reduction of the principal obligation under the note and security instrument or instruments;

(9) All records, ledger cards, documents, books, papers and accounts relating to the loan transaction;

(10) Any additional information or data which the Commissioner may require.

(d) *Claim computation.* Upon an acceptable assignment of the note and security instrument, the Commissioner shall pay the claim of the lender in cash, in debentures or in a combination of both, as determined by the Commissioner at the time of payment. The payment shall be in an amount equal to the unpaid principal balance of the supplementary loan plus:

(1) Any accrued interest due on the supplementary loan as of the date of

execution of its assignment to the Commissioner;

(2) Any advance made previously under the provisions of the loan instrument and approved by the Commissioner;

(3) Reimbursement for such reasonable collection costs, court costs, and attorney's fees as may be approved by the Commissioner;

(4) An amount equivalent to the debenture interest which would have been earned on the portion of the insurance benefits paid in cash, as of the date such cash payment is made, except that when the lender fails to meet any one of the applicable requirements of paragraphs (b) and (c) of this section within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), the interest allowance in such cash payment shall be computed only to the date on which the particular required action should have been taken or to which it was extended.

(e) *Debenture interest.* The debentures shall bear interest as provided in §207.259(e)(6) of this chapter.

(f) *Maturity of debentures.* Debentures shall mature 20 years from the date of issue.

(g) *Registration of debentures.* Debentures shall be registered as to principal and interest.

(h) *Denomination of debentures.* Debentures shall be issued in multiples of \$50 and any difference not in excess of \$50 between the amount of debentures to which the lender is otherwise entitled hereunder and the aggregate face value of the debentures issued shall be paid in cash by the Commissioner to the lender.

(i) *Redemption of debentures.* Debentures shall, at the option of the Commissioner and with the approval of the Secretary of the Treasury, be redeemable at par plus accrued interest on any semiannual interest payment date on 3 months' notice of redemption given in such manner as the Commissioner shall prescribe. The debenture interest on the debentures called for redemption shall cease on the semiannual interest payment date designated in the call notice. The Commissioner may include with the notice

of redemption an offer to purchase the debentures at par plus accrued interest at any time during the period between the notice of redemption and the redemption date. If the debentures are purchased by the Commissioner after such call and prior to the named redemption date, the debenture interest shall cease on the date of purchase.

(j) *Issue date of debentures.* The debentures shall be issued as of the date of the execution of the assignment of the supplementary loan in accordance with the requirements of paragraph (c)(3) of this section.

#### COOPERATIVE MANAGEMENT HOUSING INSURANCE AND DISTRIBUTIVE SHARES

#### **§213.275 Nature of the Cooperative Management Housing Insurance Fund.**

The Cooperative Management Housing Insurance Fund shall consist of the General Surplus Account and the Participating Reserve Account.

#### **§213.276 Allocation of Cooperative Management Housing Insurance Fund income or losses.**

For any semiannual period in which Cooperative Management Housing Insurance Fund operations shall result in a net income, or loss, the Commissioner shall allocate such net income or such loss to the General Surplus Account, to the Participating Reserve Account, or to both, as he may determine to be in accordance with sound actuarial and accounting practice. In determining net income or loss, the Commissioner shall take into consideration all income received from fees, premiums, and earnings on investments of the Fund, operating expenses, and provision for losses of the Fund.

#### **§213.277 Right and liability under the Cooperative Management Housing Insurance Fund.**

No mortgagor or mortgagee shall have any vested right in a credit balance in either the General Surplus Account or the Participating Reserve Account. No mortgagor or mortgagee shall be subject to any liability arising under the mutuality of the Cooperative Management Housing Insurance Fund.